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REMARKS

By this amendment, the limitation of claim 2, namely, a spring-biased pushbutton, has been moved into claim 1, and claim 2 has been canceled.

Claim 2 was rejected under 35 U.S.C. §103(a) over Rashbaum ('280) in view of Frayne ('742). However, the Examiner is utilizing the wrong standard for the purposes of rejection. In rejecting claims under 35 U.S.C. §103, the examiner bears the initial burden of presenting a *prima facie* case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A *prima facie* case of obviousness is established by presenting evidence that the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the references before him to make the proposed combination or other modification. See In re Lintner, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972). Furthermore, the conclusion that the claimed subject matter is *prima facie* obvious must be supported by evidence, as shown by some objective teaching in the prior art or by knowledge generally available to one of ordinary skill in the art that would have led that individual to combine the relevant teachings of the references to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

Rejections based on §103 must rest on a factual basis with these facts being interpreted without hindsight reconstruction of the invention from the prior art. The examiner may not, because of doubt that the invention is patentable, resort to speculation, unfounded assumption or hindsight reconstruction to supply deficiencies in the factual basis for the rejection. See In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 177 (CCPA 1967), cert. denied, 389 U.S. 1057 (1968). An applicant's disclosure may not be used as a blueprint to reconstruct the claimed invention from the isolated teachings of the prior art. See, e.g., Grain Processing Corp. v. American Maize-Prods. Co., 840 F.2d 902, 907, 5 USPQ2d 1788, 1792 (Fed. Cir. 1988).

When determining obviousness, "the [E]xaminer can satisfy the burden of showing obviousness of the combination 'only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references.'" In re Lee, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002), citing In re Fritch, 972 F.2d 1260, 1265, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992). "Broad conclusory

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statements regarding the teaching of multiple references, standing alone, are not 'evidence.'" In re Dembiczak, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). "More denials and conclusory statements, however, are not sufficient to establish a genuine issue of material fact." Dembiczak, 175 F.3d at 999-1000, 50 USPQ2d at 1617, citing McElmurry v. Arkansas Power & Light Co., 995 F.2d 1576, 1578, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993).

In this case, there is no motivation, teaching or foundation *from the prior art* to combine Rashbaum and Frayne. The subject matter of these references are intended for entirely different purposes and presumably disclose all of the components required to meet their respective goals. The Examiner's conclusory statement that "[o]ne of ordinary skill in the art would recognize that part 27 [of Rashbaum] can inherently be used for release of 13 from 14," is misguided. The Examiner's observation notwithstanding, part 27 is unrelated to a "quick-release mechanism," let alone a "spring-biased pushbutton." Rather, part 27 is a pin used to "fixedly secure" parts 13 and 14, and it would be apparent to one of skill that this pin is intended for permanent placement as opposed to "inherent release."

The Examiner goes on to discuss "the law of anticipation," however, this was a rejection under §103 -- not §102. Finally, the Examiner's statement that "[i]t has been held that the recitation that an element is 'capable of' performing a function is not a positive limitation but only requires the ability to so perform." This does not apply in this case, as Applicant's recitation of a "spring-biased pushbutton," is a positive, structural limitation, and not merely functional language.

Based upon the foregoing amendments and comments, this case is in condition for allowance. Questions regarding this application may be directed to the undersigned attorney by telephone, facsimile or electronic mail.

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